1926. File No. 12-26

(Draught)

Previous References
L.R 339-22-3-4
" 360-11-1-8
" 339-22-1-2

Later References
L.R 446-9(1-8)
Transf 196.39-1-11*

Serial Nos. 1-2

# General and Revenue Secretariat.

Serial Nos 2 —

Part B for May 1927

SUBJECT

Requests the opinion of the Legal Secretary in the matter of limitation affecting the recovery of the arrears of revenue outstanding in the Sri Varaha Lakshmi Mutt village now under Court management.

Re Ft 11 4 dated 25.11.26

To the Mng. Comr

Forwards the note from the Legal Secretary in the matter

1926.

GENERAL AND REVENUE SECRETARIAT.

( Inspn )

NOTES.

File No. 12-26

FILE HEADING.

Arrears of Revenue outstanding in the Sri Parakala Swamy Matt Villages now under Govt. Management

From

The Inspn Commissioner,

No. C. 32 Dated 5.7.1926 Received 7.7.1926.

| Diary No. | Enclos. | Spare Copies. | Serial No. |
|---|---|---|---|
| 19 | 1 | - | 1 |

BRIEF ABSTRACT OF LETTER.

Submits a copy of Mysore Dy. Comrs. letter raising certain points of doubt as to whether the question of limitation referred to in G.O. Dt 9-4-1926 affects the recovery of the above arrears, and

NOTES AND ORDERS.

requests legal Secretary's opinion in the matter.

1) The connected files are to be sent.

may the opinion of the L.L. Secretary be obtained?

Submitted. 15.7.'26

L.L. Sectt. 1917

2) This may be sent to the L.L. Sectt. for opinion.

Rev. Sectt. 17/7

3) Yes the matter is urgent. G.O. 15.7.26

NOTES—First Sheet.

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General Inu Revenue Secretariat

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4 This important question was considered in Law Rev File 339-22-4, on which G.O dated 9th April 1926 was passed.

5 Under Article 194 of the Limitation Regn a period of 6 years is prescribed for the recovery of ~~rent~~ arrears of revenue due from an inferior holder to a Superior holder.

6. In cases where D.C. undertakes to collect the arrears due to a Superior holder under Sec 97 of L. R. C, he can only recover 2 years' revenue by summary process.

7 D.C. has no greater powers conferred on him than ~~the~~ possessed by Superior holder in respect of his rights to collect the revenue.

8 Section 19 of Mysore Muzrai Regn VI of 1913 passed subsequent to Section 3 of Regulation No V of 1912 (same as art 194) has not superseded ~~the~~ provisions of Art 194 in respect of arrears of rent due to a Muzrai Institution

9 The effect of Sec 19 is that the Govt officers are empowered to recover revenue due to Muzrai Institutions in the same manner as arrears of land revenue due to Govt, that is, the officer is made an agent to collect the revenue in the same manner as arrears of land revenue due to Govt.

10 ~~Hence~~ All the provisions of the Revenue Regulations as are applicable to

NOTE—Contn Sheet

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the recovery of land revenue due on an occupancy in an unalienated village are not applicable to the recovery of rent due by an inferior holder or other items of revenue recoverable as arrears of land revenue.

It is only such provisions as are possible to apply will be applied. In fact the provisions relating to forfeiture & taking possession of property do not apply to the recovery of arrears due by an inferior holder.

12 Unless the Legislature has expressly stated that no limitation period of limitation applies, (eg, the art 119 A which is general in its application must apply to the cases falling under sec 19.

13 My answer to the question raised is in the negative

Rev Sec 7 with Comp 15.

84 20-7 cek 24/7

14 The opinion of the Govt Secy will be communicated to the Rc. The wording of section 19 of the Mirzai Regn prescribing the "manner" in which arrears due to Mirzai

NOTE—Contn Sheet

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OFFICE OF THE SECRETARY TO GOVERNMENT COUNCIL
24 JULY 1926
No. 527

his tenants are to be collected cannot give them arrears the same incidents as attach to land revenue due to Govt. It is unfortunate that this will result in a loss of Rs 20,000 It is not clear why no action was taken here now to recover the arrears in the manner allowed by law This will have to be inquired

(2nd member)

Govt 2377-26

15 If the legal position is as stated by the L. & M. Secretary, Muzrai institutions with inam villages are placed in a very difficult situation.

16 When did the villages of Sri Parakala-swamy Mutt come under the management of Government and in what circumstances ?

17 I do not know if the question of inferior and superior holders arises in respect of inam villages not conferred for the personal benefit of individuals, but for the maintenance of religious institutions as in this case. Whether the management of such villages is directly by Government or by others, they are distinguishable, as being public institutions, from inam villages conferred for the personal benefit of individuals. Whether for the purpose of recove of revenue, the legal position of Devadaya villages is the same as that of personal inam vil-

lages

NOTE—Contn Sheet

Serial No.

villages, is an important points for consideration.

18 As stated by the Deputy Commissioner, Section 19 of the Muzrai Regulation appears to support the view taken by him. The L.& L.Secretary however, does not agree in this view. It is desirable to examine further whether the provision in Section 19 of the Muzrai Regulation that "arrears of rent~~al~~ or revenue due to a Muzrai Institution may be recovered in the same manner as arrears of land revenue due to Government", is no wider in its application than the interpretation placed upon it by the L.& L.Secretary.

19 I should like to discuss the case with the Revenue Secretary.

27.7.26

Bring up
CRR
28-7-26

20 I have discussed this subject with the member. as desired. The following points deserve consideration

(1) It would seem that Section 19 of the Muzrai Regn which enacts that the revenue due to a Muzrai Institution may be recovered in the same manner as land Revenue is wider in significance than the powers conferred by Section 120 L.R.Code on Govt when managing an alienated village where the rules relating to unalienated lands can only be applied in respect of revenue management "so far as such rules maybe applicable"

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Revenue Secretariat

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(2) Alienated villages taken under Govt. management ~~[illegible]~~ under section 165 for arrears of revenue are held to revert to their original status as unalienated villages. While under such management. cannot the taking over of villages granted to him be interpreted to mean that the Grantor takes back the village originally granted with a view to more adequately fulfil the purposes of the grant. Section 19 of the Inamdars Regn can be held to support this view

(3) Attention is invited to the Note of the former Govt. Advocate, M.C.S Duraswamy in Pages 16 to 27 of Notes in file No 360-14 & placed below In page 27 the words "Coercive process can be employed for recovery of arrears of revenue whether one by Superior Landlord or Superior Power regardless of time * But in respect of the recovery of what is strictly called rent such processes can only be employed for the recovery of only 6 years arrears"

L & L. Secy with compts

GPS
18/2/26

I have very carefully considered the points raised above & I regret that I cannot bring myself to believe in my former opinion

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vi) I have very carefully considered the points raised above and I regret that I cannot bring myself to believe that my former opinion is ~~wrong~~ not open to any doubt. ~~The scope of~~ Section 19 of the Muzrai Regulation ~~is that~~ the Legislature has empowered the officers of Government to recover the arrears of rent or revenue due from tenants in respect of property belonging to a Muzrai Institution as arrears of land revenue if they are so included. It is a machinery section enacted to facilitate collection This is an additional remedy given to recover in a summary manner. The word "May" suggests the idea that this remedy is to be exercised at the discretion of the officer. The owner of the property has no right to compel the officer to exercise the power given under Section 19. The intention of the Legislature is therefore not clearly to debar the owner to recover the - - - arrears through a Civil Court, for by so debarring he will lose his right to recover his arrears.

vii) Hence it is clear that the owner has two courses open to him, to recover his arrears either through a Court of Law or by seeking the assistance of the officer who if he likes, can employ summary procedure to recover the arrears. In the latter case the officer only assists the owner in the collection of dues. The plain reading of the Section does not warrant any inference of Government's interference in managing the estate after attachment under circumstances mentioned in Section 16o. Section 16o applies only to cases where an arrear of revenue is due on a holding which consists of an entire village

NOTE—Contn. Sheet

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or a share of a village, i.e., where revenue due to Government by the Inamdar has fallen into arrears.

(3) This section has no application to cases where the inferior holder has made default. When a default is made by a superior holder, Deputy Commissioner shall, after taking action under Section 165, manage the lands attached. Reversion of land will not take place until and unless the village is attached under Section 165.

(4) In the present case there will be no attachment of the holding of the idol for default of payment of revenue. Hence there is no question of reversion under Section 166.

In this view it is unnecessary to consider the question whether land revenue due by the inferior holders cannot be recovered by coercive process regardless of time limit. Assuming Section 166 applies, this question must be answered in the negative.

From the discussion in the File relating to the amendment of Section 96A of the Revenue Code and enactment of Art. 119A of Limitation Regulation, it is clear that the rent or revenue due by an inferior holder to a superior holder is not made a paramount charge but made a first charge. Time limit is fixed to recover this charge.

(5) On reversion to Government all the incidents attached to unalienated land are not applicable to lands occupied by inferior holders in cases coming under the operation of Sections 166, 167

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168 and 169. The characteristics of the tenure are not altered during the period of ~~measurement~~ management for there is a contingency of restoration of these lands to the Inamdar. The legal relationship existing between the superior holder and inferior holder ~~of~~ with the encumbrance attached to the office of ~~the~~ Such being the case, the time limit to enforce such a charge applies and not the incidents of paramount charge and forfeiture as is attached to occupancy holding in unalienated villages.

2) Hence the arguments based on the operation of Sections 165 to 169, do not apply to the present case.

3) It appears to me untninkable that the legislature did not intend to apply the provisions of Art. 119A in ~~case~~ favour of an officer recovering the arrears due when the Civil Courts before whom the owner has every right to go for the recovery of large dues, undoubtedly apply the Limitation Regulation.

4) If this is so, every owner who had slept over his rights will readily seek Revenue Officers for redress to the prejudice of his opponent. This will be an abuse of the power given under Sec 19 & lead to the evasion of statutory right conferred under Art 119A.

For these reasons I see no reason to alter my opinion Viz., that Article 119A of the Limitation Regulation applies to the case.

2nd Member
2nd Member

17.8

5) This is an exceedingly important matter. The opinion of the 2nd Member is not in accordance with that of V Doraswamy Iyer. It seems that further legal opinion should be obtained.

NOTE—Contn. Sheet

Serial No

as the acceptance of the views of the Govt would involve the Mutt in a loss of Rs 20,000. This is a similar case relating to the recovery of arrears of Sanyasihalli belong to the Sivaganga Mutt. The Papers have been submitted to the First member to-day. The opinion of the Govt if accepted will mean a loss of Rs ~~7500~~ 3750. in that case

2nd member) GRs 21.8.26

21/8

33 What exactly is the power conferred upon Government by Section 19 of the Muzrai Regulation is the point under discussion. This Section permits arrears of rent or revenu due from tenants in respect of property belon-ing to a Muzrai Institution being recovered ~~notary~~ "in the same manner as ~~the~~ arrears of land revenue due to Government." The Deputy Commissioner Mysore has taken the view that this Section authorises the recovery of arrears due to Muzrai Institutions without any period of limitation. The Muzrai Commissioner has expressed no opinion on the point, The Local and Legislative Secretary considers that the view of the Deputy Commissioner is not correct and holds that in cases coming under this Section, arrears could be recovered by summary process only for two years and those for more than two and less than six years by civil suit

34 The view that cases coming under Sectio 19 can be dealt with ignoring the law of limi-

OFFICE OF THE SECOND MEMBER OF COUNCIL
24 AUG. 1926
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Misc. File No 12 of 1926

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limitation does not appear to be correct. At the same time, respecting the law of limitation, it seems to me that what is intended by Section 19 is that in cases coming under it, arrears of rent or revenue not older than six years may be recovered by summary process. To interpret the expression "due from tenants' used in Section 19 as meaning what can be claimed under article 119 (4) of the Limitation Regulation appears ~~to me~~ to be reasonable. ~~I think~~ It is fair to presume that the intention of Section 19 is to ~~xxxx~~ confer some new power upon Government and it is not unreasonable to hold that such power is to employ the summary process for recovery of what would otherwise require a civil suit.

5 The case has already been twice referred to the Local and Legislative Secretary and I am afraid I find a third reference to him necessary. I shall be obliged if he will kindly let me know if ~~even~~ the view expressed in the preceding para is ~~not~~ maintainable legally.

Mwell
25/8/26

Dr
25/8

Dr
26/8

~~Dr the~~ secy with Compts

3b The view taken by the learned member appears to me quite tenable & can well be maintained both on principle & authority.

WD 01264—GPB—40,000—17-12-26



Serial No

on principle to recover the same by summary process. In such a case the rights of the parties based on substantive law, are not altered but only the method of procedure i.e., change in the adjective law is altered. It is well settled law that a party to a litigation has no vested right in the adjective law i.e., he has no right to complain if the law relating to procedure is altered at any time. From the literal and grammatical meaning of the provisions of Section 19, it is clear that arrears of rent or revenue due from tenants.....may be recovered. If the law of limitation permits the recovery of any rent, it can be legally considered as due. Section 97 of the Land Revenue Regulation may not apply to the present case. In the first place the provisions of Section 97 apply to rent or land revenue payable to superior holders by inferior holders or co-sharers in their holdings. This excludes rent on shops or houses &c, Whereas Section 19 applies to these cases also. Secondly Section 97 contemplates an application by the superior holder for assistance, Whereas Section 19 does not contemplate any application from the Muzrai Institution. Thirdly the application under Section 97 must relate only for the recovery of rent based on a written agreement or on a decision of a revenue officer or on the records of a revenue settlement &c, whereas no such conditions are prescribed in Section 19. It appears to me that Section 19 of the Muzrai Regulation is an independent provision and not controlled by

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Section 97 of Land Revenue Regulation. It follows therefore that a Muzrai officer can proceed to recover what a tenant is legally bound to pay having regard to Art. 119A of Limitation Regulation.

Rev Sec'y
with Compts.

8/7
97
copy
9.9

OFFICE OF THE
SECOND MEMBER OF COUNCIL.
13 SEP. 1926
1979

11926

13/9

2nd member)

111 Has the Sacrayasi-halli case referred to in Rev Secy's note of 21.8.26 been settled? Mudk 16.7.26.

Revenue
16926

G.R.S. III—3]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Sangasihalli

Put up W Mez. Y. 12-26 re the of the arrears of revenue outstanding in the Paraka mati Villages now under Govt management.

W D II 2. Members order:-

Has the Sangasihalli case referred to in Rev. Secretary note dy 21. 8. 26 been settled by Rev-Secretary's order.

"Answer".

W The Sangasihalli case is being dealt with in Rev. Br., and that Br may be asked to note how the case now stands.

AM 18/9/26 To: The Superintendent Rev Branch for Ord of Kindly putting up file as per orders of Rev Secy - K 17/9

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

## Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

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The Hon'ble Member has asked for a note as to how the proposal as regards the rights of Kadim tenants in connection with the Irani Commission report will affect the proposal under consideration in the Sanyasalladi case. As the file ~~Re~~ Irani Commission Report is with the Rev Secy, the papers have not yet been put with a note as directed. The file is herewith linked —

(This will be attended to, on return of the file & on receipt of the Irani Com. file)

17/9

17/9 with file

17/9 17/9.

Submitted. With ref to the Hy. — members minutes 17/9/26 in para 41 of the office note.

17/9

Rev. Secy 17/

*N.B.*—Should routine notes be written on small slips, the notes must be copied or slips pasted on

D 4830/R. 19 (16

WD 01229—GPB—37,500—1-9 26
App. F III—2]

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49) Submitted with ref. to the member's minutes in para 41 of the office note. It is not known if orders have since been passed in Samyasihalli case. The Revenue Branch may be consulted.
Submitted for orders.
AV 27.10.26
27/10/26

2 items 2 to 278 and 285 since now see also 110 in file 9-1 to.

50) Rev Br Please note what orders have been passed on the "Samyasihalli" case ref'd to.
14/11

(Ref 85)

51) The linked file relating to the "Samnasihalli Case" is put up. No orders have yet been passed thereon. The first Member has ordered that it should be noted on after orders issue on the Standard Association Memorandum
drafted by
15.11.26

† This file was dealt with draft 90 on 16.11.26

52) Misgrave Nov
20/11
Submitted with reference to the second Members minute of 16.9.26.
20/11/26 2nd Nov)
20/11

RECEIVED IN COUNCIL
22 NOV. 1926
No 3466.

NOTE—Contn Sheet

and Revenue Secretariat

Mwz : File No. 12- of 192 6

Serial No.

53) Dr. reply to Rep. I/le please communicate the portion marked A ... the Land Secys view & 8-9-26. Our proposal of the case (as pointed out) will be made clear in the Amendt. Memo. to be laid before the L.R. mwl 23.11.26

D/P - submitd (1)
- W 23-11-26 BG 23/11/26

54) after this (2) leaves, the papers will be recorded sent to the Prob: Branch for necessary action in regard to the Member's Order above.

BG 55) (1) issue - (2) GS mwl 24/11

23/11/26

2. To, Mwz Comms No 944 dt 25-11-26.
Forwards copy of the Legal Secy's opinion in the matter.

2nd Revenue Secretariat

File No.

Serial No.

56) This may now be sent to the Protection Branch for considering the point discussed above in connection with the Amendment of the Murree Regulations

26.11.26

54) In section 12 of the Bill a provision has been added by the Select committee that the arrears should not be collected for a period more than six years prior to the institution of proceedings under the Regn.

55) In this connection the D.C. Mysore has suggested the alteration of six years into 12 years. That file has been referred to the Income Tax Branch for opinion.

Please bring up

Note—Contn Sheet

Serial No.

59 The Religious & Charitable institutions Reg^n has been issued and recently u/s. 12 The arrears of rent & revenue should not relate to a period more than six years prior to the institution of proceedings under the Reg^n

This file may be returned to the Judicial Branch.

Reg^n VII of 1924

Secy 9/5/24 9/5

69 2/28 28 9/5

61) Submitted with reference to para 53 containing the member's minutes. This will be recorded after kind perusal.

10.5.27. 10 5 27

Secy

NOTE—Contn. sheet.

WD 2293—GPB—10,000—4-5-27

00619

OFFICE OF THE REVENUE/Muzrai COMMISSIONER
IN MYSORE.

Camp Mysore
Bangalore, 2nd July 1926.

No. C 22 & 26-27
en d'one.

FROM

C. S. BALASUNDARAM IYER ESQ., B.A.,
Muzrai Revenue Commissioner in Mysore.

2.11

THE SECRETARY TO THE GOVERNMENT OF
HIS HIGHNESS THE MAHARAJA OF MYSORE
REVENUE DEPARTMENT.

Mar 12-26-1

I have the honor to submit herewith copy of Mysore Deputy Commissioner's B.O. letter No. O.C.2942/25-26 dated the 10th June 1926 raising certain points of doubt as to whether the question of limitation referred to in the Government Order of 9th April 1926 affects the recovery of the heavy arrears of revenue outstanding in the Sri Parvatala Mutt villages now under Government management, and to request that the opinion of the Local and Legislative Secretary may be kindly obtained in the matter and communicated early for needful action being taken.

2. As stated by the Deputy Commissioner, the question is an important one affecting the interests of this and other Mutts seriously.

I have the honor to be,

Sir,

Your most obedient servant,

C S Balasundaram Iyer

Muzrai Commissioner.

M.B.R.

D.O. letter No. O.C.2942/25-26 dated 10th June 1926 from the Deputy Commissioner, Mysore District, to the Muzrai Commissioner in Mysore.

---

In the matter of recovery of arrears outstanding in the Inam villages belonging to Sri Paramaiswamy Mutt, it has to be decided whether the question of limitation arises as per Government Order No. R.5085-93/L.R.339-32-4 dated 7th April 1926.

All these villages are Devadaya being granted for the support of the Sri Paramaiswami Mutt, Hayagriva Lakshminarayana Devaru as per Quit Rent Register. These properties belong to a Muzrai Institution as defined in Section 2 Clause (1) of the Mysore Muzrai Regulation VI of 1913. Under Section 19 of the Muzrai Regulation arrears of Rent or Revenue due from tenants in respect of property belonging to a Muzrai Institution may be recovered by the Officers empowered to recover Revenue due to Government in the same manner as arrears of Land Revenue due to Government. In Section 38 of the said Regulation it is laid down that in all matters in which a Muzrai Officer or Government has power to pass any order or to take any action, Civil Courts shall exercise jurisdiction only to the extent allowed by this Regulation. In as much as under Sec.19 arrears of Rent or Revenue due to a Muzrai Institution may be recovered in the same manner as arrears of Revenue due to Government by the Officers empowered to recover revenue due to Government, it seems to be clear that the jurisdiction of the Civil Courts to entertain suits regarding arrears of rent or revenue due to Muzrai Institutions as defined in Sec.2 clause (1) of the Muzrai Regulation is excluded,

The wording of Sec.19 of viz., "in the same manner as arrears of Land Revenue due to Government" seems to

include not only the procedure to be adopted but also the dents attached to the recovery of a proper arrear of Land Revenue due to Government including the question of limitation. It is thus presumed that there is no period of limitation to be observed for recovery of arrears due to Muzrai Institutions coming under Sec. 2 of the Muzrai Regulations. This question is of great importance as over Rs.20,000/- in the villages of Sri Parthalswami Mutt will have to be written off under any other view. I request to be informed whether action may be taken on the above lines and all the arrears recovered by coercive processes irrespective of the period for which they are due, and without recourse to Civil Courts.

---

" C o p y "

C S Balasundaram

Re Muzrai Commissioner

Diary No. of letter replied to.....

Section Mcs

File No. ~~III-95~~ 12-26

Serial No 172

No. 944 Income

To

The Hon. the Commissioner

Sir,

General and Revenue Secretariat

( )

the 192

Date of issue 25-11-26

Signed by Mr. Venkatesa Iyer

List of enclosures.....

Copied by.....

Examined by 25/11/26

Adverting to your letter No. C. 32 dt 5th July 1926 submitting a copy of Mysore Dy. Comr's. D.O. letter dt 10th June 1926 raising certain points of doubt as to whether the question of limitation refd. to in G.O. No. R. 5085-93/L.R. 339-22-4 dt 9.4.1926 affects the recovery of the heavy arrears of Revenue outstanding in the Sri Rama Nadar

over

24

Villages now under such
management and requesting
the opinion of the Local
and Legislative Secretary in
the matter, I am directed
to forward herewith a
copy of the Legislative
Secretary's note dated 28-9-1926 on part marked by
in the subject. Members

I have etc

Sd/ for C Secretary 14/11

Sd 13/11/26